

FREEDOM FROM RELIGION *foundation*

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August 23, 2024

SENT VIA EMAIL & U.S. MAIL: joanna_polzin@engschools.net

Joanna Polzin
Superintendent
Englewood Schools
4101 South Bannock Street
Englewood, CO 80110

Re: Unconstitutional Official Promotion of Religion

Dear Superintendent Polzin:

I am writing on behalf of the Freedom From Religion Foundation (FFRF) regarding multiple constitutional violations occurring in Englewood Schools. FFRF is a national nonprofit organization with more than 40,000 members across the country, including more than 1,300 members and two chapters in Colorado. Our purposes are to protect the constitutional principle of separation between state and church, and to educate the public on matters relating to nontheism.

A concerned District employee has reported that [REDACTED], a school counselor at Englewood High School, has been using his position to promote his personal religious beliefs to students and coworkers. Our complainant reports that he has a bible quote in his official school email signature, “‘For as people think in their hearts, so they are.’ Proverbs 23:7” He also has a sign on his door that says, “I’m reading... [the holy Bible.] Ask me about it!” Please see the enclosed photo.

We write to request that the District immediately ensure that Mr. [REDACTED] removes the bible verse from his email signature and the sign from his door in order to avoid giving the impression that the District promotes or favors religion.

It is well-settled law that public schools may not promote or show favoritism toward religion. *See generally Lee v. Weisman*, 505 U.S. 577 (1992); *Wallace v. Jaffree*, 472 U.S. 38 (1985); *Sch. Dist. of Abington Twp. v. Schempp*, 374 U.S. 203 (1963); *Engel v. Vitale*, 370 U.S. 421 (1962). The statements of a District employee and the signs they put up for public view in the school are attributable to the District. It is inappropriate and unconstitutional for the District or its agents to promote religious messages because it conveys government preference for religion over nonreligion.

When District employees use official channels of communication to promote their religious beliefs, it sends a message of exclusion that needlessly alienates the students and families who are among the 37 percent of Americans who are non-Christians, including the nearly one in three adult Americans who are religiously unaffiliated.¹ This “[s]chool sponsorship of a religious message is impermissible because it

¹ Gregory A. Smith, *Religious ‘Nones’ in America: Who They Are and What They Believe*, Pew Research Center, Jan. 24, 2024, <https://www.pewresearch.org/religion/2024/01/24/religious-nones-in-america-who-they-are-and-what-they-believe/>.

sends the ancillary message to . . . nonadherents ‘that they are outsiders, not full members of the political community and an accompanying message to adherents that they are insiders, favored members of the political community.’” *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 309–10 (2000) (quoting *Lynch v. Donnelly*, 465 U.S. 668, 688 (1984) (O’Connor, J., concurring)).

Furthermore, it is not a violation of the free speech rights of employees when a school district regulates what employees say while acting in their official capacity. *See, e.g., Johnson v. Poway Unified Sch. Dist.*, 658 F.3d 954, 970 (9th Cir. 2011), *cert. denied*, 132 S. Ct. 1807 (2012) (“Because the speech at issue owes its existence to [his] position as a teacher, [the School District] acted well within constitutional limits in ordering [the teacher] not to speak in a manner it did not desire.”); *see also Garcetti v. Ceballos*, 547 U.S. 410, 421 (2006) (“We hold that when public employees make statements pursuant to their official duties, the employees are not speaking as citizens for First Amendment purposes, and the Constitution does not insulate their communications from employer discipline.”).

Please note that the Supreme Court’s recent decision in *Kennedy v. Bremerton School District* does not apply to the facts at hand. The *Bremerton* decision simply affirms that public school faculty and staff may pray silently and privately during times when they are not acting in their official capacity as District representatives. *Kennedy v. Bremerton Sch. Dist.*, 142 S.Ct. 2407, 2432–33 (2022). Here, it is clear that Mr. [REDACTED]’s emails sent through the District’s official communications system pursuant to his duties as a District employee are not private speech. A sign on the outside of their office facing the public inviting students to discuss Christianity with him is similarly not private speech.

We understand, of course, that the District cannot monitor every email sent by employees or every posting in the school. But we do ask that it take the appropriate steps to ensure that employees, including Mr. [REDACTED] are made aware of their constitutional obligation to remain neutral toward religion while acting in their official capacity. Please ensure that Mr. [REDACTED] removes the bible verse from his email signature and the sign from his door, and understands he cannot discuss his personal religious beliefs with students. We ask that you notify us in writing of the steps the District takes to remedy this violation so that we may inform our complainant.

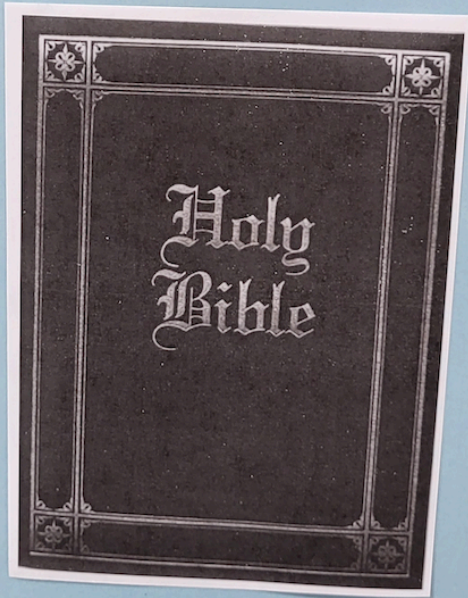
Sincerely,



Christopher Line
Staff Attorney
Freedom From Religion Foundation

Enclosure

I'm reading....



Ask me about it!

